



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,107	03/14/2001	Gunji Tsukuda	NIT-84-03	2633

24956 7590 04/20/2005

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

PATEL, JAGDISH

ART UNIT PAPER NUMBER

3624

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,107

Applicant(s)

TSUKUDA, GUNJI

Examiner

JAGDISH N PATEL

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/14/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1017102
3174101
4422102
6187104
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

The specification contains numerous grammatical errors as shown in the following examples:

The applicant is required to review entire content of the specification, including the drawings to ensure that all grammatical errors are corrected.

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms, which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

Referring to p.1 under Description of Prior Art, the specification reads:

"with widely spreading of ..through such an Internet..",

"And, it causes a problem that the distribute must deliver again,..",

at least p. 2 line 3 reads in part : **"for dissolving** such problems, .."

p. 3 lines 21-24 reads in part: "such the delivery box", **"such the common delivery locker"** etc.

p. 4 lines 15-19 reads in part: "For this reason, the distributor **must previously notices** the resident of the address that there is the **comedies** or goods to be delivered to her/him, by using such as a telephone call or a card for absentee.

p.9 lines 2-5 reads: "This is because of differences from various view points, such as from a view point of the distributor, a view point of the agent, and a view point of the purchaser."

Please note that the aforementioned occurrences of grammatical errors are only exemplary and not exhaustive. Therefore, the applicant should fully review the content of the specification and if appropriate submit a substitute specification after all errors are resolved.

Abstract:

The abstract of the disclosure is objected because it does not conform to the MPEP requirements See MPEP § 608.01(b). It is not written in a single paragraph delineating the summary of the invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Martin et al. (US 5,960,408) (hereafter Martin).

Claim 22: Martin discloses a method for determining a delivery schedule of goods, which are purchased by online shopping through the Internet, comprising the following steps:

a step for identifying said goods and for receiving an input relating to a schedule of delivery of said identified goods which a purchaser wishes to have, on a computer used by the purchaser of said goods;

a step for preparing desired schedule information indicative of said schedule responding to said input, on said purchaser computer;

a step for transmitting information of said desired schedule information of said goods from said purchaser computer through a network to a deliverer computer, used by a deliverer who participates the delivery of said goods;

a step for receiving said desired schedule information by said deliverer computer;
(see col. 2 L 55-60 “..preferred early and late delivery limits, preferred performance measurement species, and desired advance delivery times. The early and late delivery limits specify, for individual customers, on-time windows relative to delivery dates which are requested or expected by the individual customers.” Note that the database 12 is prepared in response to the input of the customers)

a step for determining delivery schedule of goods based upon the delivery schedule information of said goods and other delivery schedule information determined in advance of other goods, on said deliverer computer; and

(see col. 3 L 43-48 The invention includes a step 22 of calculating a customer-preferred ship date for the customer order entry based at least in part upon the customer-requested delivery date and at least in part upon the particular customer's specified preferences as maintained in customer preferences database 12.)

a step for indicating said delivery schedule determined from said deliverer computer through said network onto said purchaser computer, wherein said goods are delivered upon a schedule corresponding to a desire of said purchaser.

(see col. 4 L 5-16 Based upon the information contained in customer preferences database 12 and sales orders database 20, the computer system is programmed to show the order scheduler the calculated customer-preferred ship date and to obtain from the scheduler a targeted ship date for the customer order entry.)

Claim 23: While Martin teaches that the desired schedule information includes desired delivery day and a time (delivery dates requested by the customer) Martin inherently teaches that the desired schedule information also includes a desired delivery place, corresponding to when and where the purchaser wishes to have said goods, because the order delivery must include the desired location of delivery of product or goods (e.g. address where the product is to be shipped).

Apparatus claims 27-28 correspond to method claims 22-23 respectively and are similarly analyzed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin as applied to claim 22 and further in view of Officially taken Notice.

Claim 24 and 25. Martin fails to teach that the desired delivery place includes a place, which is used in common with a plural number of purchasers.

However, Official Notice is taken that providing delivery place (such as Post Office address via PO Box) which in common with other users or purchasers is old and well known in the art of shipment of goods.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the delivery place include a place used in common with a plural number of purchasers because it would be convenient for a purchaser to pickup the shipped goods when he or she cannot be present at the place of residence.

7. Claim 25 is also inherently covered by the forgoing analysis because the postal office acts as an agent store who charges for the locker rented by the purchaser.

8. Claims 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin as applied to claim 22 and further in view of Kouchi et al. (US Pat. 5406475).

9. Claim 26. Martin fails to teach however, Kouchi in the same field of endeavor teaches a step for transmitting an unacceptance information indicative that the indicated delivery schedule

is unacceptable for the purchaser, from said purchaser computer through said network to said deliverer computer, responding to an input indicative thereof by said purchaser; and a step for determining said delivery schedule again on said deliverer computer, upon basis of the unacceptance information transmitted. (col. 14 L 14-22 Thereafter, they exchange the electronic mail with each other to negotiate about the quantity of goods, the price, and date of delivery.).

10. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the steps of providing a delivery schedule on the basis of unacceptance of the indicated delivery schedule because the purchase would be able to negotiate the most convenient schedule for the delivery of goods desired by the purchaser.

11. Apparatus claims 29-31 correspond to method claims 24-26 respectively and are similarly analyzed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

4/18/05